

Internal Revenue Service

Department of the Treasury

District
Director

Employer Identification Number:

Person to Contact:

Telephone Number:

Refer Reply to:
Internal Revenue Service

CERTIFIED

Date: FEB 10 1994

Dear Applicant:

We have considered your application for recognition of exemption from Federal income tax under Section 501(c)(6) of the Internal Revenue Code.

The information submitted discloses that you were incorporated on [REDACTED] under the nonprofit corporation laws of the State of [REDACTED].

Your purposes as states in your Articles of Incorporation are as follows:

"To promote, develop and voluntarily assist in all lawful ways the interests of truck stop operators in the continental United States; to foster educational programs and social togetherness; to meet to discuss issues of common interest and to sponsor awareness of state and federal legislation; to do those things necessary to cooperate and assist each other in fostering a better image of truck stops to the public; to promote, foster and encourage interest in the better operation of truck stops..."

The primary focus of your activities (as described in Form 1024) is to contact trucking companies throughout the United States and sign them on as "customers". <see the enclosed Exhibit A customer agreement.> "Customers" can patronize your facilities for fuel and other over-the-road needs and offer suggestions to you on ways to improve facilities. In return you offer trucking companies a discount program on fuel purchases if they are not currently utilizing a discount program through either their billing company or the truck stops' in-house agreement.

You publish a network directory for these "customers" which includes such information as name and physical location of truck stops, telephone and fax numbers and a description of services available such as diesel repair and emergency towing.

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Truck stops/members have met once regionally and twice at the general membership meetings in the last two years. At these meetings you state members are made aware of issues of common interest through the use of speakers and panels consisting of members of trucking companies and selling companies.

Your primary sources of support include an initial membership fee of \$[REDACTED] for each truck stop member and monthly dues of \$[REDACTED]; you also charge each truck stop an assessment fee which is [REDACTED] of a cent charged to each member truck stop for each gallon of fuel bought by a trucking company under the discount program.

Initially on your Form 1024 your expenses were attributed to activities related to the organizations exempt purpose, salaries and wages, occupancy and depreciation. Because you had listed the bulk of your expenses as exempt function income, you were asked to break down this expense by category and purpose. In correspondence to you dated [REDACTED], you were asked a number of detailed questions relating to the time and money spent on various aspects of your activities. The allocation of your expenses are enclosed as Exhibit B. In reviewing this information it is evident that well over fifty percent of your expenses are related to the preparation and distribution of the directory to trucking company "customers", the promotion of the fuel discount program through techniques of presentations and telemarketing to the trucking company "customers" by salaried personnel.

A full time director is paid \$[REDACTED] per year for 40-50 hours of work per week. At least 75% of his time is spent on the road making field presentations to trucking company offices in an effort to market the fuel discount program. In addition [REDACTED] telemarketers spend from 24 to 32 hours per week on telemarketing and between 3 to 4 weeks are spent preparing each directory which are revised 2 to 3 times per year. In total, six to twelve weeks are spent each year on this activity.

Section 501(c)(6) of the Internal Revenue Code provides for exemption of "business leagues, chambers of commerce, real estate boards, boards of trade, or professional football leagues (whether or not administering a pension fund for football players), not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual."

Section 1.501(c)(6)-1 of Income Tax Regulations reads as follows:

"BUSINESS LEAGUES, CHAMBERS OF COMMERCE, REAL ESTATE BOARDS AND BOARDS OF TRADE. A business league is an association of persons having some common business interest, the purpose of which is to promote such common interest and not to engage in a regular business of a kind ordinarily carried on for profit. It is an organization of the same general class as a chamber of commerce or board of trade. Thus, its activities should be directed to the improvement of business conditions of one or more lines of business as distinguished from the performance of particular services for individual persons. An organization whose purpose is to engage in a regular business of a kind ordinarily carried on for profit, even though the business is conducted on a cooperative basis or produces only sufficient income to be self-sustaining, is not a business league. An association engaged in

furnishing information to prospective investors, to enable them to make sound investments, is not a business league, since its activities do not further any common business interest, even though all of its income is devoted to the purpose stated. A stock or commodity exchange is not a business league, a chamber of commerce, or a board of trade within the meaning of section 501(c)(6) and is not exempt from tax. Organizations otherwise exempt from tax under this section are taxable upon their unrelated business taxable income. See sections 511 to 515, inclusive and the regulations thereunder.

The applicable Income Tax Regulations provide that organizations contemplated by Section 501(c)(6) of the 1986 Code are those whose activities are directed to the improvement of business conditions of one or more lines of business as distinguished from the performance of particular services for individuals. Therefore, an organization which directs a substantial portion of its overall activities to the issuance of advertising material containing listings of the names of individuals may be precluded thereby from qualification for exemption under Section 501(c)(6) of the Code.

Revenue Ruling 68-264, 1968-1, C.B. 264, provides that an organization whose primary activity is to operate a traffic bureau for members and nonmembers as a service in the shipment of their goods and products does not qualify for exemption under Section 501(c)(6) of the Code. The operation of the traffic bureau for members and nonmembers constitutes the performance of particular services. The activity creates convenience and economy in pursuit of their individual businesses.

Revenue Ruling 74-308, 1974-2 C.B. 168, provides that an organization whose primary activity is providing a telephone answering service to distribute calls for towing services on a rotational basis to its members who are tow truck owners and operators, is performing particular services for its members and is not entitled to exemption from Federal income tax as a business league.

In the case of your organization, you are formed to obtain contracts with trucking companies "customers" in order for them to patronize your member's facilities for fuel and other road needs. For signing on as a customer they will receive a discount on fuel purchases at your member's facilities. This activity provides a means of bringing the customers and your members together for the convenience and economy in the operation of their businesses. It is evident from the time and money that is spent this is your primary activity. As such, your organization is directed to promoting the businesses of your members and not the industry as a whole.

Because of the above described operation your activities are aimed at the performance of particular services for your individual members as distinguished from the improvement of business conditions generally as required by Section 501(c)(6) of the Income Tax Regulations.

We have concluded that you do not qualify for exemption from Federal income tax as an organization described in Section 501(c)(6) of the Internal Revenue Code. Accordingly, you are required to file Federal income tax returns on Form 1120, annually with your District Director.

[REDACTED]

If you do not agree with these conclusions, you may within 30 days from the date of this letter, file a brief of the facts, law and arguments (in duplicate) which clearly sets forth your position. In the event you desire an oral discussion of the issues, you should so indicate in your submission. A conference will be arranged in the Regional Office after we have had an opportunity to consider the brief and it appears that the conclusions reached are still unfavorable to you. Any submission must be signed by one of your principal officers. If the matter is to be handled by a representative, the Conference and Practice Requirements regarding the filing of a power of attorney and evidence of enrollment to practice must be met. We have enclosed Publication 892, Exempt Organization Appeal Procedures for Adverse Determinations, which explains in detail your rights and procedures.

Please keep this determination letter in your permanent records.

If you agree with this determination, please sign and return the enclosed Form 6018.

If we do not hear from you within 30 days from the date of this letter, this determination will become final.

Sincerely yours,

[REDACTED]
District Director

Enclosures:
Publication 892
Form 6018